

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN RAMON VALLEY UNIFIED  
SCHOOL DISTRICT.

OAH CASE NO. 2012120032

ORDER OF DETERMINATION OF  
SUFFICIENCY OF DUE PROCESS  
COMPLAINT

On November 30, 2012, Student filed a due process hearing request<sup>1</sup> (complaint) naming the San Ramon Valley Unified School District (District).

On December 14, 2012, District timely filed a notice of insufficiency (NOI) as to Student's complaint.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.<sup>2</sup> The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of Title 20 United States Code section 1415(b)(7)(A).

A complaint is sufficient if it contains: (1) a description of the nature of the problem of the child relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education (FAPE) to the child; (2) facts relating to the problem; and (3) a proposed resolution of the problem to the extent known and available to the party at the time.<sup>3</sup> These requirements prevent vague and confusing complaints, and promote fairness by providing the

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<sup>1</sup> A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

<sup>2</sup> 20 U.S.C. § 1415(b) & (c).

<sup>3</sup> 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation.<sup>4</sup>

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”<sup>5</sup> The pleading requirements should be liberally construed in light of the broad remedial purposes of the IDEA and the relative informality of the due process hearings it authorizes.<sup>6</sup> Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.<sup>7</sup>

## DISCUSSION

The facts alleged in Student’s complaint are sufficient to put the District on notice of the issues forming the basis of the complaint. Student’s complaint identifies the issues and adequate related facts about the problem to permit District to respond to the complaint and participate in a resolution session and mediation.

The complaint chronicles Student’s increasing difficulties in school due to the inability to read, attention deficits, lack of behavior control, social/emotional instability and possible autism, and alleges that District has failed to assess Student or provide necessary special education and services in Student’s apparent areas of need beyond speech and language services and counseling. Student’s complaint alleges that District denied Student a FAPE from December 2010 through the present by: (1) failing to assess Student in all areas of suspected disability, (2) failing to draft appropriate goals or provide appropriate services, (3) failing to conduct an appropriate behavioral assessment, (4) failing to provide prior written notice of its refusal to assess or place Student as his parents requested, and (5) failing to provide Student’s parents with a complete copy of Student’s educational records. As

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<sup>4</sup> See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

<sup>5</sup> Sen. Rep. No. 108-185, *supra*, at p. 34.

<sup>6</sup> *Alexandra R. v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, No. 06-cv-0215-JL) 2009 WL 2957991 at p.3 [nonpub. opn.]; *Escambia County Board of Educ. v. Benton* (S.D.Ala. 2005) 406 F. Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Bd.* (M.D. Fla., Oct. 28, 2005, No. 8:04CV2657T24EAJ) 2005 WL 2850076 at p. 3[nonpub. opn.] ; but cf. *M.S.-G. v. Lenape Regional High School Dist.* (3d Cir. 2009) 306 Fed.Appx. 772, at p. 3[nonpub. opn.].

<sup>7</sup> Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 71 Fed.Reg. 46540-46541, 46699 (Aug. 14, 2006).

remedies, Student requests independent educational evaluations (IEEs), compensatory education, a complete copy of his records, an updated IEP and prospective private placement.

District contends that Student's issues one, three, four and five fail to allege sufficient facts to support the allegations of lack of assessment and exclusion of Student's parents from educational decisions, including how, when and what conduct by District supports each claim of denial of a FAPE. However, the IDEA requires only that a student describe the nature of the problem and facts sufficiently to provide the school district with an awareness and understanding of the issues forming the basis of the complaint. Student is not required to allege all, or even most, of the facts upon which he bases his claims, but only to make District aware of the nature of his claims. Here, Student has clearly alleged claims arising from a failure to adequately assess Student in all areas of suspected disability, a failure to keep Student's parents informed and engaged in the IEP process, and a lack of appropriate services to meet Student's unique educational needs. Therefore, Student's statement of all claims contained in the complaint is sufficient.

1. The complaint is sufficient under Title 20 United States Code section 1415(b)(7)(A)(ii).

2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

Dated: December 17, 2012

/s/

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ALEXA J. HOHENSEE  
Administrative Law Judge  
Office of Administrative Hearings